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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/815,979	04/02/2004	Peter-Franz Arnold	41653-200624	7720
26694	7590	06/14/2006	EXAMINER	
VENABLE LLP			HARMON, CHRISTOPHER R	
P.O. BOX 34385			ART UNIT	
WASHINGTON, DC 20045-9998			PAPER NUMBER	

3721

DATE MAILED: 06/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/815,979

Applicant(s)

ARNOLD ET AL.

Examiner

Christopher R. Harmon

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-5,7-12,14-17,19 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,3-5,7-12,14-17,19 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 3-4 are objected to because of the following informalities: "two of the separating devices" is improper. Furthermore regarding claim 1, it is unclear whether the limitations describing at least one separating device are relevant to other (each) separating devices with the inclusion of more than one separating devices (ie. as in claim 3). Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 8-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8-9 recite the limitation "at least two types" in line 1. There is insufficient antecedent basis for this limitation in the respective claims.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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5. Claims 1, 7, 11-12, 14-15 are rejected under 35 U.S.C. 102(b) as being anticipated by Teed (US 3,857,657).

Teed discloses a method for producing a nonwoven comprising introducing fibers to separating devices 20 and 50 above conveyor 30 positioned parallel to the rotation axis of separating elements 22. Note: air tunnel 50 acts as a second separating device for separating fibers and distributing over the surface of conveyor 30. Note: the claims are read in a broad context, therefore claim 12 is construed to mean at least one separating device comprises the rotating element and is positioned as claimed not each of a plurality. Regarding claim 15, chutes are defined by the chamber wall and conduit end 52; see figures 1 and 3.

6. Claims 1, 7, 11-12, 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Radwanski et al. (US 4,701,294).

Radwanski et al. disclose a method of producing a nonwoven comprising feeding fibers 16 to a longitudinal axis of separating device/rotatable drum 14 with rotating elements and separating device/gas delivering means 34 positioned above conveyor 32 which is positioned parallel to the rotational axis of separating device 14; see figure 1. Downstream chutes are formed from the housing 10 (upper and lower) as well as positionable devices 38 and 40 that converge into chamber 50 upstream conveyor 32.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1, 3-5, 8-10, 17, and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arthur et al. (GB 2145918) in view of Teed (US 3,857,657) or Radwanski et al. (US 4,701,294).

Arthur et al. disclose producing a nonwoven web comprising separating (multi and bi-component) fibers in separating device with rotating separation element 16, 80, 144, 146 and feeding material to conveyor 88 (also embodiment with two devices to conveyor 152 with different designs) see figures 6-7 and 9.

Regarding claim 10, Arthur et al. disclose adding granulate to the tow by unit 142; see figure 1. Regarding claim 15, each separating device has conveying chute downstream; see figure 9. Regarding claim 17, conveying chute (not labeled) is positioned above rotational elements 144 and 146.

Arthur et al. do not directly disclose the rotational axis of the separating device being parallel to the conveying direction, however both Teed and Radwanski et al. disclose a method of separating fibers with separating devices including separating elements with rotational axis in a parallel relationship with that of a conveying direction of a conveyor below, as discussed supra.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to position a separating device as taught by Teed or Radwanski as an alternate configuration for separating and accelerating the fibers. Note that Arthur

also contemplates the use of other conveyors in various alternates; see page 1, lines 60-65.

Regarding claim 16, Arthur discloses the conveying chute 134 converging with air chute 136 forming a chamber with top 132; see figure 5. It would have been obvious to one of ordinary skill in the art to combine the multiple embodiments of Arthur to include multiple separating elements (as depicted in figure 9) with chutes converging into a chamber as illustrated in figure 5.

### ***Response to Arguments***

Due to the absence of an explicit definition of the term “nonwoven” as a noun in the specification, it is construed generally as “a fibrous web” as defined by applicant’s submissions. It is noted that an applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning. See *In re Paulsen* (Fed. Cir. 1994) and *Vitronics Corp. v. Conceptiontronic Inc.* (Fed. Cir. 1996). Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim. *Toro Co. v. White Consolidated Industries Inc.*, (Fed.Cir. 1999) (meaning of words used in a claim is not construed in a “lexicographic vacuum, but in the context of the specification and drawings.”).

Applicant’s arguments with respect Hotchkiss, Pall, and Kaine have been considered but are moot in view of the new ground(s) of rejection.

Note also that it has been held that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70 and that "section 103 cannot easily be satisfied by inventions that rearrange old elements in new combinations with each element performing the same function it performed in the prior art, even though the new combination produces a more striking result than the old ones. *Sakraida v. Ag Pro, Inc.*, 425 U.S. 273 (1976).

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R. Harmon whose telephone number is (571) 272-4461. The examiner can normally be reached on Monday-Friday from 9-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, appearing to read "Chris Harmon", is positioned above the printed name.

Chris Harmon  
Patent Examiner